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STATE PROCUREMENT OFFICE  
NOTICE OF AND REQUEST FOR EXEMPTION  
FROM CHAPTER 103D, HRS

1. TO: Chief Procurement Officer  
2. FROM: Department of Human Services/Med-QUEST Division

Department/Division/Agency

Pursuant to §103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

3. Description of goods, services or construction:  
See Scope of Services attached as Exhibit A.

4. Name of Vendor: Covington and Burling, LLP  
Address: 1201 Pennsylvania Ave., NW  
Washington, D.C. 20004-2401

5. Price:  
\$500,000

6. Term of Contract: From 3/3/2010 *ba* *3/2*  
~~Upon Execution~~ To: 12/31/10

7. Prior Exemption Ref. No.  
PE-08-01-J *6/22*

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  
See Attached

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

See section 8.

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
Requests to the Attorney General and the Governor to hire specialized legal services have been approved. (See attached.) The Med-QUEST Division Administrator and the Finance Office will follow all normal procurement processes. The DHS will monitor the contract to ensure that all requirements are met.

**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)**

12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:		
Name	Position	Involvement in Process
Lillian Koller	Director of Human Services	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration
Dr. Kenneth Fink	Med-QUEST Division Administrator	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Ann Kinningham	MQD, Finance Officer	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Dona Jean Watanabe	MQD, Contracts & Purch. Spec.	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
Lee-Ann Brewer	Deputy Attorney General	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval <input type="checkbox"/> Administration

13. Direct inquiries to: Department: Human Services Contact Name: Dr. Kenneth Fink Phone Number: 692-8050 Fax Number: 692-8155
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Agency shall ensure adherence to applicable administrative and statutory requirements

14. *I certify that the information provided above is, to the best of my knowledge, true and correct.*



Department Head

03/02/10

Date

Reserved for SPO Use Only	
15. Date Notice Posted <u>3/8/10</u>	
The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to: <div style="margin-left: 200px;">           Chief Procurement Officer            State Procurement Office            P.O. Box 119            Honolulu, Hawaii 96810-0119         </div>	
Chief Procurement Officer's comments:          <div style="margin-left: 100px;">           This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply. Department is reminded that procurements \$2,500 or more are required to be posted on the Procurement Reporting System.         </div>	

16. ☒ **APPROVED**    ☐ **DISAPPROVED**    ☐ **NO ACTION REQUIRED**


3/29/2010  
 Chief Procurement Officer      Date

## Exhibit A

### Scope of Services

The contractor shall provide legal and consulting services to the State of Hawaii for the on-going implementation of our recent reforms and expansion of the Medicaid 1115 Waiver programs, QUEST managed health care program, and QUEST Expanded Access (QExA) managed care program for the aged, blind, and disabled populations. Other services include consulting on changes to QUEST-ACE, QUEST-Net, development of a new economic stimulus initiative by the Governor called "Premium Plus", other limited managed care programs and required State Plan Amendments. The services to be provided include but are not limited to the following:

- A. Develop a Quality Monitoring Program for both managed care programs.
- B. Implementation of the QUEST managed care program:
  - 1. Provide strategic advice, consultation, project management and technical assistance on issues and policy decisions as needed.
  - 2. Advise on current changes to contracts integrating behavioral health services, pay for performance, etc., and other changes to the scope of the program.
  - 3. Legal and consulting services relating to the drafting and issuance of the RFP.
  - 4. Develop an evaluation guide and tool for the technical evaluation, including training materials, and providing technical assistance throughout this phase.
  - 5. Facilitate the evaluation of the proposals in response to the RFP in Hawaii, including coordination with Med-QUEST personnel, subject matter experts, and the Attorney General's Office.
  - 6. Assist Med-QUEST personnel with a gap analysis and training plan to assist the division in developing a project management structure for outreach and education planning, open enrollment, readiness, and an Operations Plan with a phased-in training schedule to assist Med-QUEST in managing and monitoring the health plans throughout the term of the contract once the contracts are awarded. Development of a Project Implementation Plan with defined project tasks and discrete action items to guide project implementation and an Operation Plan. Assist with development of revised management strategies to meet operational challenges.
  - 7. Assist Med-QUEST Division with developing answers to questions submitted by bidders in response to the RFP.
  - 8. Assist with drafting necessary amendments to the RFP.



9. If requested, provide on-site assistance in conducting readiness reviews, developing corrective action plans if the plans need to do remedial work in order to handle delivery of services pursuant to the contract, and finalization of readiness review documents to support the health plans' abilities to deliver services to enrollees.
10. Prepare an outreach plan on positive enrollment which requires the development of education/briefing materials for targeted audiences, i.e., advocacy groups, enrollees, legislators, etc.
11. Assist Med-QUEST in negotiating with health plans and preparing any contract amendments necessary after negotiation.

C. Implementation of the QExA managed care program.

1. Provide strategic advice, consultation, project management and technical assistance on issues and policy decisions as needed.
2. Assist in developing contract amendments due to changes in the scope of services required.
3. Provide evaluation and expert advice on delivery of services as the program continues its first year providing managed care health services to the former fee-for-service clients.
4. Advise on options available to Hawaii to maximize efficiencies to increase federal funding for the on-going program.

D. Development of the Premium Plus Program

1. Provide strategic advice, consultation, project management and technical assistance on issues and policy decisions as needed in developing this new program to subsidize health insurance premium assistance to private sector businesses that hire persons recently unemployed into full-time employment.

E. Assist with State Plan Amendments (SPA)

1. Assist with pursuing State Plan Amendments to allow Hawaii to maximize efficiencies to increase federal funding as needed.
2. Communicate and consult with the Centers for Medicare and Medicaid Services (CMS) to expedite SPA processing and approvals, maintain working relationships, and provide expertise for timely and accurate State responses to CMS.

F. Implementing Basic Health Hawaii

1. Provide strategic advice, consultation, project management and technical assistance on issues and policy decisions as needed.
2. Respond to legal challenges by advocates to program modifications.

G. New Federal Statutes

1. Assist DHS in achieving compliance with and taking full advantage of opportunities afforded by new federal initiatives.

H. Budget Shortfall

1. Assist DHS in identifying and implementing measures such as waiver or state plan amendments to address Med-QUEST's current and projected budget shortfall.

8. Explanation describing how procurement by competitive means is either not practicable nor advantageous to the State:

Mr. Charles Miller, Esq. of Covington and Burling is a nationally recognized expert in the areas of Medicaid laws and policies, fee for service and waiver program structures, compliance requirements, and federal revenue maximization. As Medicaid is a federal program that provides matching funds for each State's uniquely structured Medicaid program, Mr. Miller is thoroughly knowledgeable of Hawaii's Medicaid State Plan and the 1115 and 1915C Waiver programs. He has extensive experience working with the State of Hawaii's Medicaid Program since the 1980's, including key assistance with the development of the original 1115 QUEST waiver and the distinctive QExA program. These factors strongly support the selection of Mr. Miller and his firm to provide the contracted services on behalf of the Hawaii Department of Human Services. This familiarity with Hawaii's program is a critical factor in looking at a potential contractor's qualifications.

Mr. Miller and the Covington and Burling firm have been very closely involved in the development, implementation, transition and troubleshooting of issues, and improvements made in the QUEST managed care program and the new QExA managed care program covering eligible individuals who are Aged, Blind, or Disabled. The continued implementation and evolution of these waiver programs are complex and require substantial knowledge of these current programs and federal regulations to meet the DHS' goals to maximize program and financial efficiencies, increase competition, focus on quality health care services, and strengthen accountability and state oversight of the contracted health plans to deliver effective services to our Medicaid clients.

It would not be practicable nor advantageous to the State to procure these services by competitive means. There is no other firm that is as familiar, qualified and knowledgeable of the substantive federal Medicaid laws and policies as well as Hawaii's Medicaid program as Covington and Burling. Engaging a new firm at this time would be inefficient and would cause delays in implementing program changes as a new firm would have to learn Hawaii Medicaid in order to effectively consult on issues. During this economic downturn and the availability of increased Medicaid dollars to the state up to December 2010, it would be in the state's best interest to continue to utilize the services of Covington and Burling to maximize Hawaii's opportunities to increase Medicaid funding levels while implementing program improvements.